

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**January 10, 2006**

DIVISION ONE

[illegible]

The judgment is affirmed.

Rothschild, J.

We concur:   Mallano, Acting P.J.  
                    Vogel (Miriam A.), J.

DIVISION TWO

B180029 People v. White (Not for Publication)

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The Court:

The judgment is affirmed.

Boren, P.J., Doi Todd, J., Ashmann-Gerst, J.

B183844 People (Not for Publication)  
v.  
Flores

The Court:

The judgment is affirmed.

Doi Todd, Acting P.J., Ashmann-Gerst, J., Chavez, J.

DIVISION TWO (Continued)

B182181      Los Angeles County, D.C.S.                      (Not for Publication)  
                 v.  
                 Jack R.

We reverse the order terminating parental rights for the sole purpose of providing ICWA notice. If, after notice, Alexis is not determined to be a member of a federally recognized tribe eligible for the services provided to Indians by the Secretary of the Interior, the order terminating parental rights shall stand. If Alexis is found to be a member of a tribe, that tribe shall be entitled to petition the juvenile court to invalidate orders that are in violation of the ICWA.

Doi Todd, J.

We concur:    Boren, P.J.  
                     Ashmann-Gerst, J.

B175776      Karapetian, et al.                      (Not for Publication)  
                 v.  
                 Garibian & Associates, et al.

The judgment is affirmed. Appellants are ordered to bear respondents' costs of appeal.

Doi Todd, J.

We concur:    Boren, P.J.  
                     Ashmann-Gerst, J.

B180261      People                                      (Not for Publication)  
                 v.  
                 Dunn

The judgment is affirmed.

Doi Todd, Acting P.J.

We concur:    Ashmann-Gerst, J.  
                     Chavez, J.

## DIVISION TWO (Continued)

B177825      Usher      (Not for Publication)  
v.  
California State Polytechnic University, et al.

The order is affirmed. Appellant is ordered to bear respondents' costs of appeal.

Doi Todd, J.

We concur: Boren, P.J.  
Ashmann-Gerst, J.

B179383      Beal Bank, SSB                      (Certified for Publication)  
v.  
Arter & Hadden, LLP et al.

The judgments of dismissal in favor of Arter & Hadden and Dean are reversed, and the matter is remanded with directions to the trial court to vacate its orders sustaining their demurrers without leave to amend. Beal Bank to recover its costs on appeal.

Doi Todd, J.

We concur: Boren, P.J.  
Ashmann-Gerst, J.

B180528 People (Not for Publication)  
v.  
Cohens

The Court:

The judgment is affirmed.

Boren, P.J., Doi Todd, J., Chavez, J.

### DIVISION THREE

B178322 People (Not for Publication)  
v.  
Alvarado

The judgment is affirmed, except that appellant's sentence is vacated and the matter is remanded for resentencing consistent with this opinion. The trial court is directed to forward to the Department of Corrections an amended abstract of judgment.

Kitching, J.

We concur: Klein, P.J.  
Aldrich, J.

B175736 People (Not for Publication)  
v.  
Wheeler

The judgment is reversed and the matter is remanded with the following directions. Following remand, and consistent with the views expressed in this opinion, the trial court must conduct an in camera inspection for the requested information from the personnel records of Los Angeles Police Officers Garrett Fitzgerald, Michael Fletcher, Robert Beckers, and Norm Mikkelson, and Los Angeles Police Detective Robert D'Orazio, for relevance. If the trial court's inspection on remand reveals no relevant information, the trial court must reinstate the judgment of conviction, which shall then stand affirmed. If the inspection reveals relevant information, the trial court must order disclosure, allow appellant an opportunity to demonstrate prejudice, and order a new trial if there is reasonable probability the outcome would have been different had the information originally been disclosed.

Kitching, J.

We concur: Klein, P.J.  
Aldrich, J.

## January 10, 2006 (Continued)

### DIVISION THREE (Continued)

B182330 People (Not for Publication)  
v.  
Barrios

The judgment is affirmed.

Kitching, J.

We concur:   Croskey, Acting P.J.  
                  Kitching, J.

B177695 People (Not for Publication)  
v.  
Curiel

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Aldrich, J.

B185346      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Jennifer C.,

The appeal is dismissed.

Kitching, J.

We concur: Klein, P.J.  
Croskey, J.

DIVISION THREE (Continued)

B181050      Los Angeles County, D.C.S.                      (Not for Publication)  
                 v.  
                 Mark S.,

The juvenile court orders are affirmed in part and reversed in part. The July 13, 2004, jurisdictional order is reversed in part and the matter is remanded for a new contested hearing on the allegation of sexual abuse in the petition pursuant to section 300, subdivision (d); the jurisdictional order is otherwise affirmed. The matter is also remanded for the DCFS to comply with notice requirements of the ICWA. If, after Indian entities receive proper notice under the ICWA, Ashlie and Mark Jr., are determined not be Indian children and the ICWA does not apply, the juvenile court should reinstate all previous orders. Alternatively, after Indian entities receive proper notice under the ICWA, if Ashlie and Mark Jr., are determined to be Indian children and the ICWA applies to these proceedings, Father is then entitled to petition the juvenile court to invalidate orders which violated 25 Unites States Code sections 1911, 1912, and 1913. (See 25 U.S.C. section 1914 and Cal. Rules of Court, rule 1439(n).)

Kitching, J.

We concur:   Klein, P.J.  
                 Aldrich, J.

B175242      1231 Euclid Homeowners Association  
                 v.  
                 State Farm Fire & Casualty Company

The Court:  
On the court's own motion, rehearing is granted. The matter stands submitted as of December 14, 2005.

DIVISION FOUR

B181029      Barak      (Certified for Publication)

v.

The Quisenberry Law Firm et al.

The order granting the special motion to strike is affirmed. Costs are awarded to respondents and the matter is remanded to the trial court to consider a further award of attorney fees on appeal to respondents. (*Evans v. Unkow* (1995) 38 Cal.App.4th 1490, 1499.)

Hastings, J.

We concur: Epstein, P.J.  
Curry, J.

B183164      Lorbeer      (Not for Publication)

v.

Rossi et al.

The judgment is reversed. Appellant shall have his costs on appeal.

Hastings, J.

We concur: Epstein, P.J.  
Willhite, J.

B182620      Santillana et al.      (Not for Publication)

v.

Sivalingam et al.

The judgment is reversed, and the matter is remanded with directions that the trial court deny respondents' summary judgment motion. Costs on appeal are awarded to appellants.

Hastings, J.

We concur: Epstein, P.J.  
Willhite, J.

January 10, 2006 (Continued)

DIVISION FIVE

Court convened at 9:17 am

Present: Turner, P.J., Armstrong, J., Mosk, J. and C. Adams, Deputy Clerk.

B178632      Glen Doernberg et al  
                 v.  
                 Alfred Spivak

Merits:

Argued by Glen Doernberg, in propria persona for appellants and by  
Lawrence C. Ecoff for respondent. Cause submitted.

Each of the following:

B182143      People v. Gentry  
B180971      DCFS v. Hunt

Argument waived, cause submitted.

Court recessed at 9:50 a.m.

Court reconvened at 10:00 a.m.

Present: Turner, P.J., Armstrong, J., Mosk, J. and C. Adams, Deputy Clerk.

B180932      People v. Manning

Argument waived, cause submitted.

B180216      Erste Bank  
                 v.  
                 Peter F. Wolf

Merits:

Argued by Jonathan G. Gabriel and Ira Glauber for appellant and by  
Christopher R. Baker for respondent. Cause submitted.

Court recessed at 10:44 a.m.



January 10, 2006 (Continued)

DIVISION FIVE (Continued)

Court reconvened at 10:58 a.m.

Present: Turner, P.J., Mosk, J., Kriegler, J. and C. Adams, Deputy Clerk.

Each of the following:

B179520      People v. Shabtay

B180686      People v. Kurt E.

B186269      People v. Mitchell

Argument waived, cause submitted.

B179849      Horse Rescue of America et al  
                 v.  
                 D & D Services et al

Merits:

Argued by William R. Hess for appellants and by Michael Goch for respondents. Cause submitted.

B181167      Horse Rescue of America et al  
                 v.  
                 D & D Services et al

Merits:

Argued by William R. Hess for appellants and by Michael Goch for respondents. Cause submitted.

Court recessed at 11:25 a.m.

Court reconvened at 12:58 p.m.

Present: Turner, P.J., Mosk, J., Kriegler, J. and C. Adams, Deputy Clerk.

DIVISION FIVE (Continued)

Each of the following:

B184197     DCFS v. Mabel V.  
B182851     People v. Cruz  
B181974     People v. Rodriguez

Argument waived, cause submitted.

B179183     People  
                 v.  
                 Joo

Merits:

Argued by Diana M. Teran for appellant and by Analee J. Brodie, Deputy Attorney General for respondent. Cause submitted.

B181468     Kathy Weeks et al  
                 v.  
                 Herb Goodman et al., As Trustees, etc.

Merits:

Argued by Edward J. Horowitz for appellants and by Eric M. Tokuyama for respondents. Cause submitted.

Court adjourned.

DIVISION FIVE (Continued)

B176953      Ken Colgan                      (Certified for Publication)  
                 v.  
                 Leatherman Tool Group, Inc.

The trial court's summary adjudication of liability under the False Advertising Law, the Unfair Competition Law, and the CLRA is affirmed. The restitution award is reversed. The order granting mandatory injunctive relief is reversed, and the matter remanded to the trial court to determine the appropriate scope of the mandatory injunction in view of this opinion. The attorney fees award is reversed and remanded for the trial court to determine the appropriate amount of such award in view of this opinion. Plaintiffs are awarded their costs on appeal.

Mosk, J.

We concur:   Turner, P.J.  
                 Kriegler, J.

DIVISION SIX

B178145      People                                      (Not for Publication)  
                 v.  
                 Maldonado

The judgment is affirmed.

Yegan, J.

We concur:   Gilbert, P.J.  
                 Coffee, J.

January 10, 2006 (Continued)

**DIVISION SIX (Continued)**

B182991 People (Not for Publication)  
v.  
O'Neill

The order dismissing the information is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.  
Perren, J.

## DIVISION SEVEN

B176819      Holder et al.      (Not for Publication)  
v.  
Jun et al.

The judgment is affirmed. Respondent(s) to recover costs.

Zelon, J.

We concur: Perluss, P.J.  
Woods, J.

B181662 People (Not for Publication)  
v.  
Amaya

The judgment of the superior court is modified to reduce defendant's restitution fine under section 1202.4 to \$10,000 and to reduce his parole revocation fine under section 1202.45 to \$10,000. As modified, the judgment is affirmed.

Zelon, J.

We concur: Perluss, P.J.  
Woods, J.

January 10, 2006 (Continued)

DIVISION SEVEN (Continued)

B180740      Sebastian                      (Not for Publication)  
v.  
Jacinto

The judgment is affirmed. Respondent(s) to recover costs.

Woods, J.

We concur: Perluss, P.J.  
Johnson, J.

B179905      Trang      (Not for Publication)  
v.  
Easy West Bank

The judgment is affirmed. Costs are awarded to respondents Lien Huynh and East West Bank.

Woods, J.

We concur: Perluss, P.J.  
Zelon, J.

B180721 People (Not for Publication)  
v.  
Calloway

The judgment is modified to provide that the eight-month term for burglary (count 6) and the concurrent 365-day term for false imprisonment of Nora H. (count 2) are each stayed, pending completion of the sentence on the other convictions; the stay to become permanent thereafter. In all other respects the judgment is affirmed. The trial court is directed to prepare and forward to the Department of Corrections a modified abstract of judgment reflecting these changes.

Woods, J.

We concur:   Johnson, Acting P.J.  
                      Zelon, J.

DIVISION EIGHT

B180524      Los Angeles County, D.C.S.                      (Not for Publication)  
                 v.  
                 Linda F.

The order denying the section 388 petition is affirmed.

Rubin, Acting P.J.

We concur:    Boland, J.  
                 Flier, J.

B180145      People    (Not for Publication)  
                 v.  
                 Danny M.

The judgment is affirmed.

Boland, J.

We concur:    Cooper, P.J.  
                 Flier, J.

B180691      Los Angeles County, D.C.S.                      (Not for Publication)  
                 v.  
                 Rosemary C.

The January 24, 2005 orders terminating family reunification services for Alejandro, issuing final custody and visitation orders, and terminating juvenile court jurisdiction for Alejandro and Raelene are reversed. The cause is remanded to the juvenile court with directions to conduct the contested evidentiary hearing requested by Rosemary, and to thereafter decide the issues of continued reunification for Alejandro, and issues of custody, visitation and jurisdiction as to both children.

Boland, J.

We concur:    Rubin, Acting P.J.  
                 Flier, J.

DIVISION EIGHT (Continued)

B182495      In re Jonathan Edward Townsend      (Not for Publication)  
                 on  
                 Habeas Corpus

The petition is granted. The convictions on counts one, five, nine and ten are reversed, and the matter is remanded to the superior court for further proceedings consistent with the views expressed herein.

Boland, J.

We concur:   Cooper, P.J.  
                 Rubin, J.

B178732      Christian E. Markey III,      (Not for Publication)  
                 v.  
                 Jonathan Club

For the reasons set forth above, the sanctions order is reversed, but only as to the amount of sanctions awarded. The matter is remanded to the trial court with directions to take a new look at the amount of sanctions to be awarded. with the idea in mind of reducing the award to an appropriate amount. Each side to bear its own costs on appeal.

Rubin, J.

We concur:   Cooper, P.J.  
                 Boland, J.

B177173      CMC Medical Plaza Partners,      (Not for Publication)  
                 v.  
                 Catholic Healthcare West,

The judgment (order of dismissal) is affirmed. Appellant is to bear costs on appeal.

Cooper, P.J.

We concur:   Rubin, J.  
                 Boland, J.

January 10, 2006 (Continued)

## DIVISION EIGHT (Continued)

B182858 People (Not for Publication)  
v.  
Maldonado

The judgment is affirmed.

Cooper, P.J.

We concur: Boland, J.  
Flier, J.

B182986      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Amanda C.

The order is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Flier, J.

B184085 People (Not for Publication)  
v.  
Fernando Ordonez

The judgment is affirmed.

Rubin, Acting P.J.

We concur: Boland, J.  
Flier, J.

B175388 Business To Business Markets  
v.  
Zurich Specialties London Limited

Filed order modifying opinion. (No change in the judgment)